

IN THE CIRCUIT COURT
OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA
CASE NO.: 2024-022769-CA-01

KP INVESTMENTS MIAMI, LLC,

Plaintiff,

v.

MARIO MIRABAL,

Defendant.

DEFENDANT’S EMERGENCY MOTION TO STAY PROCEEDINGS,
STRIKE CONFLICTED COUNSEL, AND RECOGNIZE FEDERAL
DIVESTITURE

COMES NOW, Defendant Mario Mirabal, pro se, and respectfully moves this Court for an emergency order staying all proceedings in this case, striking conflicted counsel from the record, and acknowledging divestiture of jurisdiction. In support thereof, Defendant states:

I. BACKGROUND

On September 2, 2025, Defendant filed a Petition to Invoke All Writs

Jurisdiction in the Florida Supreme Court, Case No. SC2025-1325, requesting emergency supervisory relief to halt unlawful state court actions taken by disqualified judges and conflicted parties.

On September 8, 2025, Defendant filed three federal civil complaints in the United States District Court for the Southern District of New York:

Case No. 1:25-cv-07418 (Civil Rights – § 1983)

Case No. 1:25-cv-07419 (Civil RICO)

Case No. 1:25-cv-07423 (Federal Collateral Attack on Void Judgment)

Plaintiff KP Investments Miami, LLC and its lead counsel (IN THIS CASE) John Cunill, Esq., , are all named defendants in these SDNY actions.

Despite these conflicts, on September 15, 2025, Mr. Cunill unilaterally scheduled a hearing on Plaintiff's Motion to Declare Defendant a Vexatious Litigant and Request for Security Bond, now calendared before this Court for October 14, 2025, before Judge Lourdes Simon.

II. GROUNDS FOR STAY, STRIKE, AND DIVESTITURE

A. Federal Proceedings Supersede Jurisdiction

Jurisdiction over this matter was divested to federal court on April 5, 2025, upon proper notice of removal. All state court proceedings thereafter — including any initiated by KP or Deutsche Bank — are constitutionally void and structurally preempted.

The SDNY proceedings now pending involve identical facts, parties, and fraud claims. Those complaints allege a pattern of racketeering, assignment fraud, and judicial obstruction — all traceable to the very litigation posture now before this Court.

B. Retaliation Against a Whistleblower

Plaintiff’s actions in scheduling a sanctions hearing against Defendant — while knowingly named in ongoing federal litigation — constitutes retaliation against a federal whistleblower.

The motion now set for hearing seeks to declare the whistleblower a “vexatious litigant,” despite unrebutted federal jurisdiction, and protected filings in federal court.

C. Improper Participation by Conflicted Counsel

John Cunill, Esq. and the Law Offices of Adorno & Cunill are named parties in all three SDNY cases and are barred from continuing to prosecute or participate in this case.

Mr. Cunill has knowingly continued to file motions, schedule hearings, and

represent KP Investments in direct violation of:

Florida Rule of Judicial Administration 2.330 (e) and (f)

Rules of Professional Conduct

Federal whistleblower protections

D. Foundational Fraud Remains Unresolved

This ejectment case is a derivative proceeding based entirely on a void judgment obtained through fraud upon the court, and challenged via:

Rule 1.540(d) Motion before Judge Enriquez (pending)

Rule 60(d)(3) Motion before the Eleventh Circuit (pending)

Federal Collateral Attack in SDNY (pending)

Until those foundational motions are fully adjudicated, this case lacks legal standing to proceed.

E. Pattern of Judicial Misrepresentation

Mr. Cunill has repeatedly misrepresented the procedural posture and factual history of this case, while suppressing the Court's jurisdictional awareness. His filings routinely ignore the effect of federal removal, misstate the nature of pending disqualification motions, and falsely characterize the Defendant's filings as "abusive" or "irrelevant."

This misconduct has been extensively documented in Defendant's Rule 60(d)(3) Motion for Relief from Judgment Based on Fraud Upon the Court, now pending before the Eleventh Circuit Court of Appeals, which includes evidence that this and all state and federal Courts were knowingly manipulated through a pattern of calculated fraud and deliberate forum abuse.

Until those Rule 60(d)(3) proceedings are resolved, the judgment underlying this case remains contested and jurisdictionally void.

F. Public Oversight and Investigative Review

All dockets relating to this proceeding — including records of improper filings by conflicted counsel and inconsistent judicial rulings — have been submitted to congressional oversight committees, judicial watchdog organizations, and national journalists. This docket, together with all related dockets, forms a live public archive that has been published to prevent continued retaliation against whistleblower-protected activity and to expose systemic manipulation of judicial processes through fraud. The archive further documents the refusal of disqualified judges to honor the foundational rules that bar their participation.

Continued reliance by this Court on the representations of John Cunill, or any attorney currently named as a federal defendant will be preserved in the record as part of an evidentiary chain submitted for public oversight, federal audit, and referral.

This Court is now on notice that its docket is being independently reviewed. Any further rulings made while ignoring divestiture, disqualification, or retaliation claims will be construed as potential judicial misconduct and institutional complicity in an ongoing pattern of fraud and rights violations.

III. CLOSING STATEMENT: THE FRAUD AND TITLE DECEPTION NARRATIVE

The following excerpt is drawn from Defendant's previously filed judicial reply and is restated here to preserve the integrity of the record and underscore the foundational fraud underpinning this case:

The Fraud and Title Deception Narrative

"The deed Plaintiff relies on in this case, is the very one Defendant challenges. Plaintiff's exhibits reflects a Special Magistrate deed "for Mario Mirabal" recorded on November 25, 2024 for \$10, tied to the earlier specific-performance case. That instrument is the subject of Defendant's fraudulent-conveyance challenge across state, bankruptcy, and federal filings.

Plaintiff, as part of the fraud perpetuated upon both Mr. Mirabal and the

courts of this state and the United States, now asks the Court to believe that Mr. Mirabal — the legitimate homestead owner and party to a \$1.3 million contract with Carlos Perez / KP Investments — somehow conveyed his property for \$10. This is despite the existence of a settlement agreement between Mr. Mirabal and Deutsche Bank, in which Deutsche Bank accepted a \$590,000 payoff in full resolution of the foreclosure dispute, prior to Mirabal learning that the assignment relied upon by Deutsche Bank was fraudulent.

That assignment was forged by the now-disbarred David J. Stern law office, purporting to transfer the note and mortgage from IndyMac Bank to Deutsche Bank in 2010—more than two years after IndyMac ceased to exist. The transfer directly violated the Pooling and Servicing Agreement (PSA) governing the IndyMac INDX 2007-AR5 trust, in which Deutsche Bank served only as trustee, with no authority to foreclose or retain recoveries. All obligations were already satisfied through FDIC resolution in 2008.

In essence, Plaintiff asks this Court to believe that Mr. Mirabal—who had contracted to sell the property for \$1.3 million, and had settled the underlying loan for \$590,000—voluntarily transferred a \$2 million homestead for \$10. Even setting aside the forged assignment, Plaintiff's position suggests Mr. Mirabal relinquished over \$700,000 in equity without cause or compensation.

Plaintiff falsely represents Mr. Mirabal as a mere occupant of “KP's property,” when in fact KP never held lawful title. The deed was recorded amid active state and federal proceedings, including after Deutsche Bank's foreclosure had been dismissed with prejudice by Judge Bokor in 2020, a ruling Deutsche Bank never disclosed when KP pursued specific performance, in organized collusion to defraud Mr. Mirabal and the courts".

Every single representation made by attorney John Cunill in these proceedings has, in fact, constituted a knowing fraud upon the court.

Defendant Mario Mirabal is not a vexatious litigant. He is a Florida resident and U.S. citizen who has exercised his lawful right to defend his homestead against a fraudulent conveyance — one executed under color of law, and backed by actors now facing federal civil prosecution in three open SDNY cases.

From 2008 through 2024, Mr. Mirabal was continuously represented by licensed counsel. It was only after the sudden illness and passing of that attorney that Mr. Mirabal was forced to proceed pro se. Since that time, he has acted with diligence and restraint, submitting carefully documented pleadings and raising meritorious objections based on unrebutted evidence of systemic mortgage assignment fraud.

To now label him “vexatious” is a retaliatory misuse of judicial process. Mr. Mirabal has not only exposed an unlawful deprivation of his homestead, but also uncovered a pervasive, ongoing fraud affecting homeowners across this state — perpetrated by officers of the court who have abandoned their oath to uphold the Constitution.

Mr. Mirabal has the right — both as a litigant and as a whistleblower — to resist slander, to document fraud, and to pursue all lawful remedies, judicial and public, to hold these actors accountable.

Defendant reiterates that no further proceedings may lawfully continue while this Court knowingly relies on fraudulent instruments, disqualified counsel, and misrepresented title. This statement is preserved as a closing record declaration of the fraud, suppression, and federal conflict surrounding this

case.

IV. RELIEF REQUESTED

WHEREFORE, Defendant respectfully moves this Court to:

Stay all proceedings in this case, including the October 14, 2025 hearing on Plaintiff's Motion to Declare Defendant a Vexatious Litigant;

Strike the appearance of John Cunill, Esq., the Law Offices of Adorno & Cunill, and Beth Norrow, Esq. from this record based on active conflicts of interest and federal disqualification;

Declare that no further action may proceed in this case until:

The pending All Writs Petition before the Florida Supreme Court (SC2025-1325) is resolved;

The federal SDNY cases reach disposition (Case Nos. 1:25-cv-07418, 07419, 07423);

The pending 1.540(b) and 1.540(d) motions before Judge Enriquez are adjudicated;

Acknowledge that jurisdiction was divested as of April 5, 2025, and that any

further action constitutes judicial overreach, prejudicial abuse, and potential obstruction of federal oversight.

Enter any additional relief this Court deems just and proper to protect constitutional rights, prevent fraud upon the court, and preserve the separation of state and federal jurisdiction.

Respectfully submitted,

/s/ Mario Mirabal

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